

**ARS § 39-101** Permanent public records; quality; storage; violation; classification

- A. Permanent public records of the state, a county, city or town, or other political subdivision of the state, shall be transcribed or kept on paper or other material which is of durable or permanent quality and which conforms to standards established by the director of the Arizona state library, archives and public records.
- B. Permanent public records transcribed or kept as provided in subsection A shall be stored and maintained according to standards for the storage of permanent public records established by the director of the Arizona state library, archives and public records.
- C. A public officer charged with transcribing or keeping such public records who violates this section is guilty of a class 2 misdemeanor.

**ARS § 39-121** Inspection of public records

Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours.

**ARS § 39-121.01** Definitions; copies; printouts or photographs of public records; examination by mail; index

- A. In this article, unless the context otherwise requires:
  - 1. "Officer" means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.
  - 2. "Public body" means the state, any county, city, town, school district, political subdivision or tax-supported district in the state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from the state or any political subdivision of the state, or expending monies provided by the state or any political subdivision of the state.
- B. All officers and public bodies shall maintain all records, including records as defined in section 41-1350, reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from the state or any political subdivision of the state.
- C. Each public body shall be responsible for the preservation, maintenance and care of that body's public records and each officer shall be responsible for the preservation, maintenance and care of that officer's public records. It shall be the duty of each such body to carefully secure, protect and preserve public records from deterioration, mutilation, loss or destruction, unless disposed of pursuant to sections 41-1347 and 41-1351.
- D. Subject to section 39-121.03:
  - 1. Any person may request to examine or be furnished copies, printouts or photographs of any public record during regular office hours or may request that the custodian mail a copy of any public record not otherwise available on the public body's web site to the requesting person. The custodian may require any person requesting that the custodian mail a copy of any public record to pay in advance for any copying and postage charges. The custodian of such records shall promptly furnish such copies, printouts or photographs and may charge a fee if the facilities are available, except that public records for purposes listed in section 39-122 shall be furnished without charge.
  - 2. If requested, the custodian of the records of an agency shall also furnish an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld from the requesting person. The custodian shall not include in the index information that is expressly made privileged or confidential in statute or a court order. This paragraph shall not be construed by an administrative tribunal or a court of competent jurisdiction to prevent or require an order compelling a public body other than an agency to furnish an index. For the purposes of this paragraph, "agency" has the same meaning prescribed in section 41-1001, but does not include the department of public safety, the department of transportation motor vehicle division, the department of juvenile corrections and the department of corrections.
  - 3. If the custodian of a public record does not have facilities for making copies, printouts or photographs of a public record which a person has a right to inspect, such person shall be

granted access to the public record for the purpose of making copies, printouts or photographs. The copies, printouts or photographs shall be made while the public record is in the possession, custody and control of the custodian of the public record and shall be subject to the supervision of such custodian.

- E. Access to a public record is deemed denied if a custodian fails to promptly respond to a request for production of a public record or fails to provide to the requesting person an index of any record or categories of records that are withheld from production pursuant to subsection D, paragraph 2 of this section.

**ARS § 39-121.02** Action upon denial of access; expenses and attorney fees; damages

- A. Any person who has requested to examine or copy public records pursuant to the provisions of this article, and who has been denied access to or the right to copy such records, may appeal the denial through a special action in the superior court, pursuant to the rules of procedure for special actions against the officer or public body.
- B. If the court determines that a person was wrongfully denied access to or the right to copy a public record and if the court finds that the custodian of such public record acted in bad faith, or in an arbitrary or capricious manner, the superior court may award to the petitioner legal costs, including reasonable attorney fees, as determined by the court.
- C. Any person who is wrongfully denied access to public records pursuant to the provisions of this article shall have a cause of action against the officer or public body for any damages resulting therefrom.

**ARS § 39-121.03** Request for copies, printouts or photographs; statement of purpose; commercial purpose as abuse of public record; determination by governor; civil penalty; definition

- A. When a person requests copies, printouts or photographs of public records for a commercial purpose, the person shall provide a statement setting forth the commercial purpose for which the copies, printouts or photographs will be used. Upon being furnished the statement the custodian of such records may furnish reproductions, the charge for which shall include the following:
1. A portion of the cost to the public body for obtaining the original or copies of the documents, printouts or photographs.
  2. A reasonable fee for the cost of time, materials, equipment and personnel in producing such reproduction.
  3. The value of the reproduction on the commercial market as best determined by the public body.
- B. If the custodian of a public record determines that the commercial purpose stated in the statement is a misuse of public records or is an abuse of the right to receive public records, the custodian may apply to the governor requesting that the governor by executive order prohibit the furnishing of copies, printouts or photographs for such commercial purpose. The governor, upon application from a custodian of public records, shall determine whether the commercial purpose is a misuse or an abuse of the public record. If the governor determines that the public record shall not be provided for such commercial purpose the governor shall issue an executive order prohibiting the providing of such public records for such commercial purpose. If no order is issued within thirty days of the date of application, the custodian of public records shall provide such copies, printouts or photographs upon being paid the fee determined pursuant to subsection A.
- C. A person who obtains a public record for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses it for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorney fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.
- D. For the purposes of this section, "commercial purpose" means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from public records for the purpose of

solicitation or the sale of names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of the public record. Commercial purpose does not mean the use of a public record as evidence or as research for evidence in an action in any judicial or quasi-judicial body.

**ARS § 39-123** Information identifying a peace officer, justice, judge, commissioner, public defender or prosecutor; confidentiality; definitions

- A. Nothing in this chapter requires disclosure from a personnel file by a law enforcement agency or employing state or local governmental entity of the home address or home telephone number of a peace officer as defined in section 13-105, a justice, a judge, a commissioner, a public defender or a prosecutor.
- B. The agency or governmental entity may release the information in subsection A of this section only if either:
  - 1. The person consents in writing to the release.
  - 2. The custodian of records of the agency or governmental entity determines that release of the information does not create a reasonable risk of physical injury to the person or the person's immediate family or damage to the property of the person or the person's immediate family.
- C. A law enforcement agency may release a photograph of a peace officer if either:
  - 1. The peace officer has been arrested or has been formally charged by complaint, information or indictment for a misdemeanor or a felony offense.
  - 2. The photograph is requested by a representative of a newspaper for a specific newsworthy event unless:
    - (a) The peace officer is serving in an undercover capacity or is scheduled to be serving in an undercover capacity within sixty days.
    - (b) The release of the photograph is not in the best interest of this state after taking into consideration the privacy, confidentiality and safety of the peace officer.
    - (c) An order pursuant to section 28-454 is in effect.
- D. This section does not prohibit the use of a peace officer's photograph that is either:
  - 1. Used by a law enforcement agency to assist a person who has a complaint against an officer to identify the officer.
  - 2. Obtained from a source other than the law enforcement agency.
- E. This section does not apply to a certified peace officer who is no longer employed as a peace officer by a state or local government entity.
- F. For the purposes of this section:
  - 1. "Commissioner" means a commissioner of the superior court.
  - 2. "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the Arizona court of appeals, the superior court or a municipal court.
  - 3. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.
  - 4. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.
  - 5. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

**ARS § 39-124** Releasing information identifying a peace officer, justice, judge, commissioner, public defender or prosecutor; violations; classification; definitions

- A. Any person who is employed by a state or local government entity and who, in violation of section 39-123, knowingly releases the home address or home telephone number of a peace officer as defined in section 13-105, a justice, a judge, a commissioner, a public defender or a prosecutor with the intent to hinder an investigation, cause physical injury to a peace officer, justice, judge, commissioner, public defender or prosecutor or the peace officer's, justice's, judge's, commissioner's, public defender's or prosecutor's immediate family or cause damage to the property of a peace officer, justice, judge, commissioner, public defender or prosecutor or the peace officer's, justice's, judge's, commissioner's, public defender's or prosecutor's immediate family is guilty of a class 6 felony.

- B. Any person who is employed by a state or local government entity and who, in violation of section 39-123, knowingly releases a photograph of a peace officer with the intent to hinder an investigation, cause physical injury to a peace officer or the peace officer's immediate family or cause damage to the property of a peace officer or the peace officer's immediate family is guilty of a class 6 felony.
- C. For the purposes of this section:
1. "Commissioner" means a commissioner of the superior court.
  2. "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the Arizona court of appeals, the superior court or a municipal court.
  3. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.
  4. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.
  5. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

**ARS § 39-125** Information relating to location of archaeological discoveries and places or objects included or eligible for inclusion on the Arizona register of historic places; confidentiality

Nothing in this chapter requires the disclosure of public records or other matters in the office of any officer that relate to the location of archaeological discoveries as described in section 41-841 or 41-844 or places or objects that are included on or may qualify for inclusion on the Arizona register of historic places as described in section 41-511.04, subsection A, paragraph 9. An officer may decline to release this information if the officer determines that the release of the information creates a reasonable risk of vandalism, theft or other damage to the archaeological discoveries or the places or objects that are included on or may qualify for inclusion on the register. In making a decision to disclose public records pursuant to this section, an officer may consult with the director of the Arizona state museum or the state historic preservation officer.

**ARS § 39-126** Federal risk assessments of infrastructure; confidentiality

Nothing in this chapter requires the disclosure of a risk assessment that is performed by or on behalf of a federal agency to evaluate critical energy, water or telecommunications infrastructure to determine its vulnerability to sabotage or attack.

**ARS § 41-1331** Arizona state library, archives and public records.

ASLAPR is to provide a records management program

**ARS § 41-1343** Access to public records

The director, in person or through a deputy, has the right of reasonable access to all nonconfidential public records in the state, or any public office of the state or any county, city, municipality, district or political subdivision of the state, because of the historical and research value of data contained in those records, with a view to securing their safety and determining their need for preservation or disposal.

**ARS § 41-1345** Records; records management; powers and duties of director; fees; records services fund

- A. The director is responsible for the preservation and management of records. In addition to other powers and duties, the director shall:
1. Establish standards, procedures and techniques for effective management of records.
  2. Make continuing surveys of record keeping operations and recommend improvements in current record management practices including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records.
  3. Establish standards and procedures for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping.
  4. Establish criteria for designation of essential records within the following general categories:
    - (a) Records containing information necessary to the operations of government in the emergency created by a disaster.
    - (b) Records containing information necessary to protect the rights and interests of persons or to establish and affirm the powers and duties of governments in the resumption of operations after a disaster.

5. Reproduce or cause to be reproduced essential records and prescribe the place and manner of their safekeeping.
6. Obtain such reports and documentation from agencies as are required for the administration of this program.
7. Request transmittal of the originals of records produced or reproduced by agencies of the state or its political subdivisions pursuant to section 41-1348 or certified negatives, films or electronic media of such originals, or both, if in the director's judgment such records may be of historical or other value.
8. On request, assist and advise in the establishment of records management programs in the legislative and judicial branches of the state and provide program services similar to those available to the executive branch of state government pursuant to this article.
9. Establish a fee schedule to systematically charge state agencies, political subdivisions of this state and other governmental units for services described in this section and section 41-1345.01 and deposit monies received from fees in the records services fund established by subsection B of this section.
10. Subject to approval of the board, establish a fee schedule to charge state agencies, political subdivisions of this state and other governmental units of this state for services and expenses incurred by the state library in obtaining copies of those reports, documents and publications that are required to be delivered, supplied or provided pursuant to sections 35-103, 41-1335 and 41-1338 and deposit these monies in the records services fund established by subsection B of this section.

B. A records services fund is established consisting of monies deposited pursuant to subsection A, paragraph 9 of this section. The director shall administer the fund for the purposes provided in subsection A of this section. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

**ARS § 41-1345.01** Records management officer; duties

- A. The state library shall employ a records management officer who is responsible for the direction and control of the records management program. The records management officer shall at the direction of the director administer the provisions of section 41-1345.
- B. The state library shall:
  1. Through consultation and education, provide for an efficient and contemporary records management program using modern techniques to facilitate the efficient and economic creation, maintenance, control, retention and disposition of records as defined in section 41-1350.
  2. Operate a records management center for the maintenance and housing of inactive non-archival records. The records management center shall be the only inactive records center operated by a state agency. State agencies may use other facilities for inactive records storage with prior approval of the director.
  3. Establish standards and procedures for records accepted for storage.
  4. Operate a secure vault as part of the records management center for the housing and maintenance of micrographic, machine read and selected essential records.
  5. Operate a preservation imaging function that is responsible for:
    - (a) The efficient and coordinated use of micrographics and digital imaging equipment, techniques and personnel to achieve optimum quality, effectiveness and economy in the production of source document micrographics and digital imaging.
    - (b) The processing and duplication of microfilm produced by the preservation imaging operation and film produced by other agencies of this state.

**ARS § 41-1346** State and local public records management; violation; classification; definition

- A. The head of each state and local agency shall:
  1. Establish and maintain an active, continuing program for the economical and efficient management of the public records of the agency.
  2. Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the rights of the state and of persons directly affected by the agency's activities.

3. Submit to the director, in accordance with established standards, schedules proposing the length of time each record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency.
  4. Submit a list of public records in the agency's custody that are not needed in the transaction of current business and that are not considered to have sufficient administrative, legal or fiscal value to warrant their inclusion in established disposal schedules.
  5. Submit to the director lists of all essential public records in the custody of the agency.
  6. Cooperate with the director in the conduct of surveys.
  7. Designate an individual within the agency to manage the records management program of the agency. The designated individual:
    - (a) Must be at a level of management sufficient to direct the records management program in an efficient and effective manner.
    - (b) Shall act as coordinator and liaison for the agency with the state library. Comply with rules, standards and procedures adopted by the director.
- B. The governing body of each county, city, town or other political subdivision shall promote the principles of efficient record management for local public records. Such governing body shall, as far as practicable, follow the program established for the management of state records. The director shall, upon request of the governing body, provide advice and assistance in the establishment of a local public records management program.
- C. A head of a state or local agency who violates this section is guilty of a class 2 misdemeanor.
- D. For the purposes of this section, "records management" means the creation and implementation of systematic controls for records and information activities from the point where they are created or received through final disposition or archival retention, including distribution, use, storage, retrieval, protection and preservation.

**ARS § 41-1347** Preservation of public records

- A. All records made or received by public officials or employees of this state in the course of their public duties are the property of the state. Except as provided in this article, the director and every other custodian of public records shall carefully protect and preserve the records from deterioration, mutilation, loss or destruction and, when advisable, shall cause them to be properly repaired and renovated. All paper, ink and other materials used in public offices for the purpose of permanent records shall be of durable quality and shall comply with the standards established pursuant to section 39-101.
- B. Records shall not be destroyed or otherwise disposed of by any agency of the state, unless it is determined by the state library that the record has no further administrative, legal, fiscal, research or historical value. The original of any record produced or reproduced pursuant to section 41-1348 may be determined by the state library to have no further administrative, legal, fiscal, research or historical value. A person who destroys or otherwise disposes of records without the specific authority of the state library is in violation of section 38-421.

**ARS § 41-1348** Production and reproduction of records by agencies of the state and political subdivisions; admissibility; violation; classification

- A. Each agency of the state or any of its political subdivisions may implement a program for the production or reproduction by photography or other method of reproduction on film or electronic media of records in its custody, whether obsolete or current, and classify, catalogue and index such records for convenient reference. The agency, prior to the institution of any such program of production or reproduction, shall obtain approval from the director of the types of records to be produced or reproduced and of the methods of production, reproduction and storage and the equipment which the agency proposes to use in connection with the production, reproduction and storage.
- B. Except as otherwise provided by law, records reproduced as provided in subsection A of this section are admissible in evidence.
- C. The provisions of this section shall not be applicable to permit destruction of current original affidavits of registration as that term is used in section 16-163.
- D. A head of an agency of this state or a political subdivision of this state who violates this section is guilty of a class 2 misdemeanor.

**ARS § 41-1350** Definition of records

In this chapter, unless the context otherwise requires, "records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media pursuant to section 41-1348, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein. Library or museum material made or acquired solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications or documents intended for sale or distribution to interested persons are not included within the definition of records as used in this chapter.

**ARS § 41-1351** Determination of value; disposition

Every public officer who has public records in the public officer's custody shall consult periodically with the state library and the state library shall determine whether the records in question are of legal, administrative, historical or other value. Those records determined to be of legal, administrative, historical or other value shall be preserved. Those records determined to be of no legal, administrative, historical or other value shall be disposed of by such method as the state library may specify. A report of records destruction that includes a list of all records disposed of shall be filed at least annually with the state library on a form prescribed by the state library.